

FEDERAL AID

CTEP Civil Rights **Agenda**

(Attach to Engineer's pre-construction minutes)

Available from Montana Department of Transportation (MDT) Civil Rights

Wage Rates

CRB Manual

Postings

Equal Employment Opportunity (EEO) folder

CTEP Investigations

Request for Authorization of Additional Classification and Rate

DBE Newsletter

Title VI Rights Pamphlet

7-day Handout

If you have questions during the preconstruction conference, please call Bill Anderson at (406) 444-6334, (406) 431-6334, or email him at "bianderson@state.mt.us."

FEDERAL - AID CTEP PROJECTS

Civil Rights Agenda Part 1: Labor Compliance Part 2: EEO

Attendees: _____ Date: _____

On-System: _____ or Off-System: _____

Project: _____ Location: _____

Prime Contractor: _____ Sub-contractor(s) (written contract?): _____

District: _____ Information Presented by: _____

MDT's Liaison: _____ Local Project Manager: _____

Estimated Start Date: _____ Estimated Completion Date: _____

Part 1: Labor Compliance

- ☐ **Work performed by second tier contractors requires an approved sub-sub-contract excepting equipment rental agreements. (Prime → Sub → Sub-sub)**

WRITTEN AGREEMENTS

Zone(s):

["... determined by measuring the road miles over the shortest practical maintained route from the County Courthouse of the following towns (see General Wage Decision) to the center of the job." Exemptions from zone pay include: Electricians, Line Construction, Painters, and Welders. Is the zone(s) specified on contract? If multiple sites for the project, each site can be listed with the different appropriate zone.]

This federal aid project is located in **zone** _____ (Is it specified in contract?)

Is there is to be a **pit or a batch plant** associated with this job? _____

Is it covered by **Davis Bacon** wages? _____

Payrolls: *(Does "Site of Work" Apply? If yes, see **Site of Work** section below.)*

1. Original copy of certified payroll to Project Manager
2. Statement of Compliance must be attached to each certified payroll. Be sure the appropriate fringe benefit box has been checked and that the statement is signed.
3. Payroll records must be retained by the contractor for a period of three years.
4. Owners and other salaried supervisors must be shown on the payroll when performing duties on the project site.
5. Who is **Contractor's project manager**? _____
6. What is the **anticipated workday**? _____

Fringe Benefits:

1. The contractor has three options:

a.[] Fringe Benefits may be paid directly to employees each week, in cash, or
b.[] Fringe Benefits may be paid to a trust fund (approved by U.S.DOL), or
c.[] Fringe Benefits may be paid in a combination of a. and b. above.

Name of trust fund? _____

2. If fringe benefits are paid to a trust fund for which the employee is not a member, the contractor is obligated to provide information to the employee concerning access to the trust fund.

Work Week:

General Wage Decisions (attached to the contract) set the Base pay + zone pay + fringe benefits which equals the total wage package. A contractor may opt to pay more than the wage package. 40 hours is a standard workweek -- on the 41st hour, overtime (time and a half) must be paid

Overtime is based on 1.5 X base rate + zone pay, or 1.5 X the higher wage rate the contractor has chosen to pay. Fringe benefits are always paid straight time. Fringe benefits will be indicated on the certified payroll as paid in cash and/or to an

approved bona fide fund. In both straight and overtime situations, worker must be paid at least what they would have earned under Davis-Bacon wages.

Legal Deductions:

1. The only legal deductions are FICA (Social Security & Medicare), State (SIT), and Federal (FIT) Taxes.
2. Deductions other than those mentioned above must be accompanied by a deduction authorization signed by the employee. The signed and dated authorization must include the specific weekly dollar amount and the specific reason for the deduction.
3. If a deduction for child support or a garnishment occurs, a letter on the company's letterhead explaining the judicial decree must accompany the **first** payroll on which the deduction occurs.

Shifting:

Shifting from the wage rate to the fringe benefits to cover higher fringe benefits than those in the contract is permitted if it is a requirement of a bargaining agreement or other trust fund agreement. The wage/fringe package must remain the same or higher than that in the contract wage rates. Overtime must be calculated on the published Davis-Bacon wage rate or the wage actually being paid if higher than the published rate. Once the overtime rate is calculated, shifting can then occur.

Work Classifications:

What work classifications will be working on this project? _____

Are those worker classifications to work on this project covered by the applicable wage decision? ☐ Yes ☐ No

If no is answered above, does a request for authorization of additional classification and rate need to be submitted? ☐ Yes ☐ No

1. Flaggers are covered by Davis-Bacon Wage Rates. (All flaggers must be certified)
2. Foremen and supervisors working with the tools of the trade more than 20% of the time must be paid a minimum of the appropriate wage rate for the work they are performing. All foremen and superintendents **must** appear on the certified payroll, even if salaried.

3. Employees working at other than their assigned classifications for 20% or more of their time must be paid for the work they are performing or at the higher of the two rates.
4. Employees **must** be classified and paid for the work they are performing. The classification codes shown on the payroll must clearly identify the work being performed. **We request that all contractors use the MDT groups from the contract wage rates.** If your computer software will not print them, please write them in.

If the contractor uses a classification system other than what is provided in the contract, it must be easily comparable to the MDT group system and must identify the wage decision number. Two copies of the contractor's code conversion sheet must be provided with the FIRST payroll submitted for each project.

Example:

<u>Contractor Code</u>		<u>MDT Code</u>
Common laborer	=	Laborer, group 2

Site of Work:

1. The site of work is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed, other adjacent or nearby property used by the contractor or subcontractor which can be reasonably said to be included in the site.
2. The site of work definition includes material or supply sources, tool yards, job headquarters, etc. in the site of the work only where they are **dedicated** to the covered construction project **AND are adjacent or virtually adjacent** to the location where the building or work is being constructed.
3. Not included in the site of work are permanent home offices, branch plant establishments, fabrication plants and tool yards whose locations and continuance in operation are determined wholly without regard to a particular federal-aid contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards of a commercial supplier or material man that are established by a supplier of materials for the project before the opening of bids and are not adjacent or virtually adjacent to the project site are not included in the site of work. Such permanent, previously established facilities are not a part of the site of work even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

4. Delivery of items such as sand, gravel, ready-mixed concrete, etc., when performed by a bona fide material supplier serving the public are activities not covered by the Davis-Bacon and Related Acts (DBRA). Therefore, in this instance, material supplier employees are not subject to DBRA labor standards unless such transportation occurs between the construction work site and a dedicated facility located adjacent or virtually adjacent to the construction site. A history of sales to the general public, prior to bid opening, must be demonstrated by the material supplier to be exempt from DBRA.
5. Fabrication plants, batch plants, and/or borrow pits of a commercial supplier or material man which **are not established** prior to bid opening and are dedicated to the project and adjacent or virtually adjacent to the project site are covered by Davis-Bacon (such as portable batch plants). Personnel employed by the material supplier in this case must be paid the appropriate rate of pay.
6. If there is a question as to whether a material supply location is covered by DBRA, please call Bill Anderson at the Civil Rights Bureau at 444-6334.

Additional Comments: _____

PART 2: EEO CONTRACT COMPLIANCE

PRE-BID ISSUES

- Does the prime contractor with contracts of \$10,000 or more and any subcontractors have current annual EEO submissions? Annual EEO Submissions must be received in Helena and approved prior to the contractor beginning work on the project site.
 - a. The EEO Submission consists of a Company Policy Statement, EEO Officer Designation, Company Discrimination Complaint Procedures, and Complaint Form. (This is available on the MDT Internet site at Civil Rights/ EEO Contract Compliance/ EEO Submissions.)
- Have **wage rates** been included with all pre-bid advertising documents? This is required for all federal aid contracts of \$2,000 or more.
- Has the **PR 1273** (Required Contract Provisions – Federal – Aid Contracts) been included with all pre-bid advertising documents?
- Have Americans with Disabilities Act (**ADA**) and Disadvantaged Business Enterprises (**DBE**) regulations been considered and resolved?

POST-BID ISSUES

- Wage rates and the PR 1273 must be **physically affixed** to the **prime and any sub-contracts** and cannot just be referenced in the contract. This is the City/County's responsibility to assure it is accomplished.
- Schedule the preconstruction conference. Invite the prime contractor, the CTEP Liaison, and the MDT Compliance Specialist (Bill Anderson @ 444-6334).
- **The Prime Contractor's EEO Officer is _____.** This person is expected to:
 - attend compliance reviews;
 - demonstrate what affirmative action the prime and each subcontractor have taken;
 - provide documentation of **all** recruitment efforts (including subcontractors).
 - Minority and/or female referral sources can be obtained from Civil Rights. The U. S. Department of Labor has held that it shall be no excuse if the union with which the contractor has a bargaining agreement fails to refer a minority or female.
 - Obtain the current annual EEO submissions from the prime contractor and any subcontractors that will be working on the job prior to any work starting. This is required for all federal aid contracts of \$10,000 or more.

AFTER WORK HAS BEGUN

- Is the project site **bulletin board** in place with all the correct postings from the prime contractor and each subcontractor? Bulletin Boards must be located in an area **accessible** to all employees. Three ring notebooks can only be used if the work is *mobile* such as fencing, striping, or traffic control. Subcontractors may use the Prime's bulletin board as long as their own information is posted on it.
- **Contents of Bulletin Board:** Posters: EEO Is The Law, Wage Rate Information, and Dual Employment; Current Annual EEO Submission: Company Policy Statement, Identification and responsibility of the EEO Officer, Complaint Procedures and Complaint Form; Contract Info: FHWA 1273 (Required Contract Provisions) and Davis-Bacon Wage Rates for this project and, DBE Hotline poster.
- **Field Inspections** will be conducted with LC-1's during working hours by the Civil Rights Bureau staff or the CTEP project manager.
- **On-site EEO Meetings** will be conducted weekly ☐; every other week ☐; or monthly ☐. Minutes and attendance roster must be provided to the MDT Inspector. The MDT Inspector shall be notified when the EEO on-site meeting will be held.

Federal Aid CTEP

- Are the prime and each subcontractor submitting **certified payrolls** on a **weekly basis**?
- Have the payrolls been checked weekly to ensure the right wages have been paid to each person employed on the project site?
- Is the contractor employing a core crew or did new employees get hired for this project? If yes, what **good faith efforts** were made to recruit qualified minority and female employees?
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- Did the prime pay all subcontractors within 7 days after receiving a periodic or final payment? (28-2-2103(2) MCA. (No payment is required unless the subcontractor submits a billing statement or invoice.)

QUESTIONS?

Contact **Bill Anderson, Compliance Specialist**, at

(406) 444-6334 or bianderson@state.mt.us.

Additional Comments: _____